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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,890	03/15/2002	Thomas Andrew Strasser	PH01-00-04C	5413
27774 7590 12/22/2008 MAYER & WILLIAMS PC 251 NORTH AVENUE WEST 2ND FLOOR WESTFIELD, NJ 07090				
EXAMINER LI, SHI K				
ART UNIT 2613		PAPER NUMBER		
MAIL DATE 12/22/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/099,890

Applicant(s)

STRASSER ET AL.

Examiner

Shi K. Li

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-11, 13-24 and 62-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 16 and 62-64 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 9-11, 13-15, 17, 19-22, 24 and 65 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 18 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 October 2008 has been entered.

Allowable Subject Matter

2. The indicated allowability of claim 4 (equivalent to claim 1 of instant claim list) is withdrawn in view of the newly discovered reference(s) to Sharratt et al. (U.S. Patent 7,136,586 B2). Rejections based on the newly cited reference(s) follow.

Claim Objections

3. Claims 1 and 59 are objected to because of the following informalities: "in for use in" in line 1 of claim 1 should be "for use in". "in for use in" in line 1 of claim 59 should be "for use in". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9-11, 13-15, 19 and 65 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 9 recites the limitation "wherein the first and second plurality of transponders" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 19 recites the limitation "the blocking filtering element" in lines 1-2 of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 65 depends on claim 49. However, claim 49 has been cancelled.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 2, 17 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Sharratt et al. (U.S. Patent 7,136,586 B2).

Regarding claims 1 and 24, Sharratt et al. discloses in FIG. 7 an apparatus comprising transponder 1410, an optical coupling arrangement 1420 and a bias control unit. Sharratt et al. teaches in col. 18, lines 34-45 that a plurality of the transponders 1410 can be included in parallel. Sharratt et al. teaches in FIG. 7 that the optical coupling arrangement is tunable.

Regarding claim 2, the tunable filter 1420 selects the wavelength that the transponder operates and the transponder 1430 corresponds to the receivers of instant claim.

Regarding claim 17, Sharratt et al. teaches in FIG. 7 CCU 1210 for blocking any channel wavelengths.

10. Claim 65 is rejected under 35 U.S.C. 102(c) as being anticipated by Aihara et al. (U.S. Patent 6,856,594 B1).

Aihara et al. teaches in col. 2, lines 60-65 shared protection and 1:n protection.

Claim Rejections - 35 USC § 103

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharratt et al. (U.S. Patent 7,136,586 B2) in view of Galou et al. (U.S. Patent Application Pub. 2004/0085345 A1).

Sharratt et al. has been discussed above in regard to claims 1, 2, 17 and 24. The difference between Sharratt et al. and the claimed invention is that Sharratt et al. does not teach an identifying element. However, it is well known in the art that components are provided with part number or model number for identifying the components. For example, Galou et al. teaches a network management system for providing configuration management and network inventory management (see paragraph [0112] through [0134]). Galou et al. teaches in paragraph [1555] Common Language Equipment Identifier (CLEI) which is a standard code used by suppliers to identify equipment parts and system configurations. One of ordinary skill in the art would have been motivated to combine the teaching of Galou et al. with the apparatus of Sharratt et al. because it allows effective management of the system. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a network management system, as taught by Galou et al., in the apparatus of Sharratt et al. because it allows effective management of the system.

Regarding claims 20, Galou et al. teaches in FIG. 11 and paragraph [0407] that model number can be manually modified.

13. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharratt et al. (U.S. Patent 7,136,586 B2) in view of Ibukuro et al. (U.S. Patent 6,697,546 B2).

Sharratt et al. has been discussed above in regard to claims 1, 2, 17 and 24. The difference between Sharratt et al. and the claimed invention is that Sharratt et al. does not teach a second plurality of transponders serving as backup transponders. Ibukuro et al. teaches in col. 19, lines 18-20 that FIG. 49 is an application of FIG. 43 which uses redundant transponders for protection (see col. 17, lines 3-7). One of ordinary skill in the art would have been motivated to combine the teaching of Ibukuro et al. with the apparatus of Sharratt et al. because the redundant transponders protects against equipment failure. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second plurality of transponders for protection, as taught by Ibukuro et al., in the apparatus of Sharratt et al. because the redundant transponders protects against equipment failure.

14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharratt et al. and Ibukuro et al. as applied to claims 7 and 9 above, and further in view of Elliot et al. (U.S. Patent 6,587,470 B1).

Sharratt et al. and Ibukuro et al. have been discussed above in regard to claims 7 and 9. The difference between Sharratt et al. and Ibukuro et al. and the claimed invention is that Sharratt et al. and Ibukuro et al. do not teach that each transponder pair is located in adjacent slots. Elliot et al. teaches in FIG. 12 to group working modules and associated protection modules together. One of ordinary skill in the art would have been motivated to combine the

teaching of Elliot et al. with the modified apparatus of Sharratt et al. and Ibukuro et al. because putting related circuit packs in adjacent slots simplifies backplane design and is convenient for maintenance craftsman to locate associated working and protection circuit packs. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to assign associated working and protection transponders in adjacent slots, as taught by Elliot et al., in the modified apparatus of Sharratt et al. and Ibukuro et al. because putting similar circuit packs in adjacent slots simplifies backplane design and is convenient for maintenance craftsman to locate associated working and protection circuit packs

15. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharratt et al., Ibukuro et al. and Elliot et al. as applied to claim 10 above, and further in view of Li et al. (U.S. Patent 6,414,765 B1).

Sharratt et al., Ibukuro et al. and Elliot et al. have been discussed above in regard to claim 10. The difference between Sharratt et al., Ibukuro et al. and Elliot et al. and the claimed invention is that Sharratt et al., Ibukuro et al. and Elliot et al. do not teach the wavelength relationship between working and protection transponder. Li et al. teaches in FIG. 1 a two-fiber protection ring. Li et al. teaches in col. 6, line 30-col. 7, line 3 that in a single channel fault, the working channel and protection channel have different wavelength and in a multi-channel fault, such as a fiber cut, the working channel and the protection channel have same wavelength. One of ordinary skill in the art would have been motivated to combine the teaching of Li et al. with the modified apparatus of Sharratt et al., Ibukuro et al. and Elliot et al. because in a fiber cut, protection channels are carried by the fiber other than the fiber that used for working channels while in single channel fault, protection channel and working channel are in the same fiber. This

arrangement provides maximum efficiency of wavelength channel usage. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to use same wavelength for working and protection channels when multi-channel fault occurs and use different wavelength for working and protection channels when single channel fault occurs, as taught by Li et al., in the modified apparatus of Sharratt et al., Ibukuro et al. and Elliot et al. because this arrangement provides maximum efficiency of wavelength channel usage.

16. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharratt et al. and Galou et al. as applied to claims 3 and 10 above, and further in view of May, Jr. et al. (U.S. Patent 6,321,255 B1).

Sharratt et al. and Galou et al. have been discussed above in regard to claims 3 and 10. The difference between Sharratt et al. and Galou et al. and the claimed invention is that Sharratt et al. and Galou et al. do not teach details of the identifying element. May, Jr. et al. teaches in col. 1, lines 34-64 an interface for storing and sending identification information to management system. May, Jr. et al. then teaches in FIG. 3 method for dynamically storing device identification to allow for addition of new fields. One of ordinary skill in the art would have been motivated to combine the teaching of May, Jr. et al. with the modified communication system of Sharratt et al. and Galou et al. because the interface allows management system to retrieval accurate and up-to-date identification information from the device. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an interface for storing and sending up-to-date device identification information, as taught by May, Jr. et al., in the modified communication system of Sharratt et al. and Galou et al. because the

interface allows management system to retrieval accurate and up-to-date identification information from the device.

Allowable Subject Matter

17. Claims 8, 16 and 62-64 are allowed.
18. Claims 5-6, 18 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

19. Applicant's arguments with respect to claims 1-3, 7, 9-11, 13-15, 17, 19-22, 24 and 65 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shi K. Li whose telephone number is 571 272-3031. The examiner can normally be reached on Monday-Friday (7:30 a.m. - 4:30 p.m.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

skl
18 December 2008

/Shi K. Li/
Primary Examiner, Art Unit 2613